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In re Application of:

BURGESS, John, et al.

U.S. Application No.: 10/551,801

COMMUNICATION

PCT No.: PCT/EP2004/003465

International Filing Date: 01 April 2004

Priority Date: 01 April 2003

Attorney's Docket No.: DUMMETT-039XX

For: COMMUNICATION SYSTEM

This Communication is issued in response to the 07 February 2007 submission of a declaration executed on behalf of inventor John BURGESS by an unnamed legal representative. No petition fee is required.

BACKGROUND

On 01 April 2004, applicants filed international application PCT/EP2004/003465. The international application claimed a priority date of 01 April 2003, and it designated the United States. On 14 October 2004, the International Bureau (IB) communication a copy of the international application to the United States Patent and Trademark Office (USPTO). Payment of the U.S. basic national fee was required prior to the expiration of thirty months from the priority date, i.e., 01 October 2005.

On 29 September 2005, applicants filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. The Transmittal Letter was accompanied by, among other materials, payment of the basic national fee and an unexecuted declaration.

On 07 December 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (PCT/DO/EO/905) requiring submission of an executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 07 February 2007, applicants filed a response to the Notification Of Missing Requirements accompanied by payment of the required surcharge and the declaration considered herein. The declaration was executed by three of the four inventors and on behalf of the remaining inventor, John BURGESS, by an unnamed legal representative.

DISCUSSION

As noted above, applicants have filed a declaration executed on behalf of one of the inventors by a legal representative. A declaration executed on behalf of an inventor by his/her legal representative may be accepted only if the application falls within the scope of 37 CFR 1.42 or 37 CFR 1.43.

37 CFR § 1.42 states:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

37 CFR § 1.43 states:

In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Here, applicants have not indicated which, if any, of the above provisions the declaration filed 07 February 2007 has been submitted under. Moreover, any declaration executed on behalf of the inventor by a legal representative would have to identify the legal representative and provide additional information regarding the legal representative, i.e., the legal representative's citizenship and mailing address (see 37 CFR 1.497(b)(2)).

Based on the above, the declaration filed on 07 February 2007 does not comply with the requirements of 37 CFR 1.497 in that the declaration was not properly executed by inventor John BURGESS.

CONCLUSION

The declaration filed 07 February 2007 is a defective response to the Notification of Missing Requirements mailed 07 December 2006 in that such declaration has not been properly executed by inventor John BURGESS.

Applicants have **ONE (1) MONTH** from the mail date of the present decision to submit a proper response, that is, a declaration in compliance with 37 CFR 1.497 executed by inventor John BURGESS or, if appropriate, a declaration in compliance with 37 CFR 1.497 properly executed on behalf of John BURGESS and submitted pursuant to the requirements of 37 CFR 1.42 or 1.43.

Extensions of time are not available under 37 CFR 1.136(a).

Failure to file a proper response will result in abandonment of the application.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

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